

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, et al;)
)
Plaintiffs,)
)
v.)
) CIVIL ACTION
BRAD RAFFENSBERGER, et al.;) FILE NO: 1:17cv02989-AT
)
)
Defendants.)
)
)
)

**FULTON COUNTY DEFENDANTS' WITHDRAWAL OF QUALIFIED
IMMUNITY ARGUMENT FROM THEIR MOTION FOR SUMMARY
JUDGMENT**

COME NOW, the Members of the Fulton County Board of Registration and Elections, Mary Carole Cooney, Vernetta Nurridin, Kathleen D. Ruth, Mark Wingate, and Aaron Johnson (“Fulton County Defendants”) in the above-styled case, by and through the undersigned counsel, and pursuant to Federal Rule of Civil Procedure 11(b), move to withdraw the portion of their Brief in Support of their Motion for Summary Judgment that is based on the argument for qualified immunity. (Doc. 1573, at ¶ B., pp. 12-15).

Although the Eleventh Circuit has held that "for qualified immunity purposes, the term 'damages' includes costs, expenses of litigation, and attorneys' fees claimed by a plaintiff against a defendant in the defendant's personal or individual capacity." *D'Aguanno v. Gallagher*, 50 F.3d 877, 881 (11th Cir. 1995), because the Fulton County Defendants are being sued solely in their official capacities (Doc. 627 at ¶ 21 and Doc. 226 at ¶ 38), the Fulton County Defendants have determined that it is proper to withdraw their qualified immunity defense at this time.

WHEREFORE, Fulton County Defendants respectfully withdraw the qualified immunity argument from their Motion and Brief in Support of Summary Judgment. Fulton County Defendants continue to extend and rely on all other arguments contained in their Motion and Brief in Support of Summary Judgment.

Respectfully submitted, this 26th day of January, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on this date I have electronically filed the foregoing
**FULTON COUNTY DEFENDANTS' WITHDRAWAL OF QUALIFIED
IMMUNITY ARGUMENT FROM THEIR MOTION FOR SUMMARY
JUDGMENT** with the Clerk of Court using the CM/ECF system, which will send
email notification of such filing to all attorneys of record.

This 26th day of January, 2023.

/s/ David R. Lowman
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